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7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION  
11

12 UNITED STATES OF AMERICA, ) No. CR-04-40043-SBA  
13 Plaintiff, )  
14 v. ) PLEA AGREEMENT  
15 DAREN M. LASKY, )  
16 Defendant. )  
17

18 I, DAREN M. LASKY, and the United States Attorney's Office for the Northern District  
19 of California (hereafter "the government") enter into this written plea agreement (the  
20 "Agreement") pursuant to Rules 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal  
21 Procedure:

22 The Defendant's Promises

23 1. I agree to plead guilty to counts one through four of the captioned information  
24 charging me with tax evasion, in violation of 26 U.S.C. § 7201. I agree that the elements of the  
25 offense and the maximum penalties for each count are as follows: (1) an attempt to evade or  
26 defeat a tax or payment thereof; (2) additional tax is due and owing; and (3) defendant did so  
27 knowingly and willfully.

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- 1           a.     Maximum prison sentence           5 years
- 2           b.     Maximum fine                            \$250,000
- 3           c.     Maximum supervised release term    3 years
- 4           d.     Mandatory special assessment        \$100 (per count)
- 5           e.     Total Restitution (4 counts)        \$165,806, plus statutory interest

6           2.     I agree that I am guilty of the offenses to which I will plead guilty, and I agree that  
7 the following facts are true:

8           I am a 34 year old independent flooring contractor residing in Oakley, California. I did  
9 independent contractor work for many businesses in the Bay Area during 1998, 1999, 2000, and  
10 2001. I received checks from these businesses and although I knew I was required to file tax  
11 returns reporting the income I earned and to pay taxes on that income, I intentionally did not file  
12 tax returns reporting the income or pay taxes on this income to the Internal Revenue Service for  
13 the 1998, 1999, 2000, and 2001 tax years.

14           In order to conceal my income from the IRS, I arranged for my compensation for the  
15 services I provided to general contractors to be falsely reported by them to the Internal Revenue  
16 Service on Form 1099-MISC as paid, not to me, but to non-existent corporations with false and  
17 fraudulent Employer Identification Numbers (numbers assigned by the Internal Revenue Service,  
18 to others, but not to me). The false business names that I used included Commercial Flooring,  
19 Inc. and Showers, Tubs, Designs and Flooring, Inc. (STDF, Inc.). To conceal my income and  
20 assets from the IRS, I used bank accounts opened in other names instead of using my own name  
21 and my Social Security number so the bank would not report my activities to the IRS.

22           I knew I was required to report and pay my true and correct tax liabilities for the 1998,  
23 1999, 2000, and 2001 tax years. My true and correct tax liabilities for those years as computed  
24 by the Internal Revenue Service using the net worth method of proof are as follows: \$76,104 for  
25 1998; \$1,389 for 1999; \$34,335 for 2000; and \$53,978 for 2001. I should have reported these  
26 amounts as due and owing on federal income tax returns for those years and paid those amounts  
27 to the IRS. Instead, I did not file 1998, 1999, 2000, and 2001 tax returns to evade my true and  
28 correct tax liabilities.

1           3.     I agree to give up all rights that I would have if I chose to proceed to trial,  
2 including the rights to a jury trial with the assistance of an attorney; to confront and cross-  
3 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise  
4 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and  
5 to pursue any affirmative defenses and present evidence.

6           4.     I agree to give up my right to appeal my convictions, the judgment, and orders of  
7 the Court. I also agree to waive any right I may have to appeal my sentence.

8           As to any matter in which I am cooperating with the government pursuant to this  
9 agreement, I waive any right I may have to assert the attorney-client privilege to decline to  
10 answer questions relating to communications with counsel for any other defendant including a  
11 defendant acting pro se, except as to communications where counsel for the other defendant was  
12 my attorney of record. I also waive my right to conflict-free representation by any attorney or  
13 pro se defendant where a conflict arises from that attorney's or defendant's participation in a  
14 joint defense agreement to which I also was a party.

15           5.     I agree not to file any collateral attack on my convictions or sentence, including a  
16 petition under 28 U.S.C. §2255, at any time in the future after I am sentenced, except for a claim  
17 that my constitutional right to the effective assistance of counsel was violated.

18           6.     I agree not to ask the Court to withdraw my guilty pleas at any time after they are  
19 entered.

20           7.     I agree that the Sentencing Guidelines in effect at the time the offenses were  
21 committed should be calculated as follows, and that I will not ask for any other adjustment to or  
22 reduction in the offense level or for a downward departure of any kind:

- |    |  |           |
|----|--|-----------|
| 23 | a. Base Offense Level, U.S.S.G. §§2T1.1 and 2T4.1: | 15        |
| 24 | b. Amount of loss:                                 | \$165,806 |
| 25 | c. Acceptance of responsibility:                   | -2        |
| 26 | d. Adjusted offense level:                         | 13        |

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1           11. I agree that the government’s decision whether to file a motion pursuant to USSG  
2 §5K1.1, as described in the government promises section below, is based on its sole and  
3 exclusive decision of whether I have provided substantial assistance and that decision will be  
4 binding on me. I understand that the government’s decision whether to file such a motion, or the  
5 extent of the departure recommended by any motion, will not depend on whether convictions are  
6 obtained in any case. I also understand that the Court will not be bound by any recommendation  
7 made by the government.

8           12. I agree not to commit or attempt to commit any crimes before sentence is imposed  
9 or before I surrender to serve my sentence; violate the terms of my pretrial release (if any);  
10 intentionally provide false information or testimony to the Court, the Probation Office, Pretrial  
11 Services, or the government; or fail to comply with any of the other promises I have made in this  
12 Agreement. I agree that, if I fail to comply with any promises I have made in this Agreement,  
13 then the government will be released from all of its promises, but I will not be released from my  
14 guilty pleas.

15           13. If I am prosecuted after failing to comply with any promises I made in this  
16 Agreement, then (a) I agree that any statements I made to any law enforcement or other  
17 government agency or in Court, whether or not made pursuant to the cooperation provisions of  
18 this Agreement, may be used in any way; (b) I waive any and all claims under the United States  
19 Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal  
20 Rules of Evidence, or any other federal statute or rule, to suppress or restrict the use of my  
21 statements, or any leads derived from those statements; and (c) I waive any defense to any  
22 prosecution that it is barred by a statute of limitations, if the limitations period has run between  
23 the date of this Agreement and the date I am indicted.

24           14. I agree that this Agreement contains all of the promises and agreements between  
25 the government and me, and I will not claim otherwise in the future.

26           15. I agree that this Agreement binds the U.S. Attorney’s Office for the Northern  
27 District of California only, and does not bind any other federal, state, or local agency.

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1 The Government's Promises

2 16. The government agrees to move to dismiss any open charges pending against the  
3 defendant in the captioned information at the time of sentencing.

4 17. The government agrees not to file or seek any additional charges against the  
5 defendant that could be filed as a result of the investigation that led to the pending information.

6 18. The government agrees not to use any statements made by the defendant pursuant  
7 to this Agreement against him, unless the defendant fails to comply with any promises in this  
8 agreement.

9 19. If, in its sole and exclusive judgment, the government decides that the defendant  
10 has cooperated fully and truthfully, provided substantial assistance to law enforcement authorities  
11 within the meaning of U.S.S.G. §5K1.1, and otherwise complied fully with this Agreement, it  
12 will file with the Court a motion under §5K1.1 and/or 18 U.S.C. §3553 that explains the nature  
13 and extent of the defendant's cooperation and recommends a downward departure.

14 The Defendant's Affirmations

15 20. I confirm that I have had adequate time to discuss this case, the evidence, and this  
16 Agreement with my attorney, and that he has provided me with all the legal advice that I  
17 requested.

18 21. I confirm that while I considered signing this Agreement and, at the time I signed  
19 it, I was not under the influence of any alcohol, drug, or medicine.

20 22. I confirm that my decision to enter a guilty plea is made knowing the charges that  
21 have been brought against me, any possible defenses, and the benefits and possible detriments of  
22 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no  
23 one coerced or threatened me to enter into this agreement.

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25 Dated: \_\_\_\_\_

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DAREN M. LASKY  
Defendant

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KEVIN V. RYAN  
United States Attorney

Dated: \_\_\_\_\_

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THOMAS MOORE  
Assistant United States Attorney

I have fully explained to my client all the rights that a criminal defendant has and all the terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all the rights he is giving up by pleading guilty, and, based on the information now known to me, his decision to plead guilty is knowing and voluntary.

Dated: \_\_\_\_\_

\_\_\_\_\_  
MICHAEL MURRAY  
Attorney for Defendant